

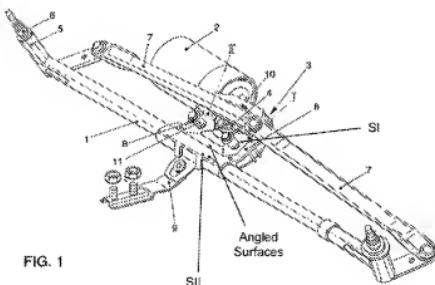
Response to Office Action Mailed March 2, 2010
Examiner: Gary K. Graham
Serial No. 10/538,084
Docket: VAL 203 P2

REMARKS

Applicants wish to thank Examiner Graham for the interview on May 25, 2010.

On page 2 of the Office Action, the Examiner rejected claims 1, 10 and 11 under 35 U.S.C. 102(b) as being anticipated by Ostrowski (German Patent 10011842) (Ostrowski '842). The Examiner stated various reasons for the rejection. In view of the claims as now presented and for the following reasons, Applicants respectfully believe that these claims are not anticipated by Ostrowski '842.

Ostrowski '842 discloses a wiper mechanism shown as follows:



As understood, Ostrowski '842 discloses the stops 11, B. However, it should be apparent that the swaying arm 4 in Ostrowski '842 cannot start outside the pivoting zone because of the angled surfaces SI and SII as labeled above. As understood, it would seem that the end of the swaying arm 4 in Ostrowski '842 would engage the surface SII if it were outside the pivoting range as defined in Applicants' claim 1.

Claim 1 further states the swaying element is in the first mounting position it is outside the pivoting range, but is driven into the pivoting range, and after such pivoting, the at least one stop may be mounted on the housing to delimit movement of the swaying element from within the pivoting range to outside the pivoting range.

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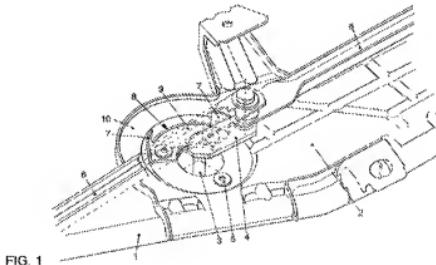
In no reasonable interpretation of Ostrowski '842 does it appear that the swaying element 4 starts outside the pivoting range, moves into the pivoting range and then becomes delimited by at least one stop after its movement into the pivoting range. It appears that the Examiner is using the teaching of Applicants' disclosure in his interpretation of the Ostrowski '842 reference and such use is improper.

Moreover, claim 1 further requires that the support frame comprise a tubular element and the at least one add-on element comprise a tube retaining section, the tubular element being secured between the housing and the tube retaining section of the at least one add-on element.

For all the foregoing reasons and in view of the claim 1 as now presented, Applicants believe that claim 1 is not anticipated by Ostrowski '842. Claims 2, 4, 10, and 11 are dependent claims and contain limitations in addition to the limitations of claim 1 and for the reasons stated earlier are also not anticipated by the Ostrowski '842.

On page 3 of the Office Action, the Examiner rejected claims 1, 2, 4, 6, 10 and 11 under 35 U.S.C. 102(b) as being anticipated by Ostrowski (German Patent 10125988) (Ostrowski '988).

Ostrowski '988 teaches of a wiper arm having the following construction:



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Note that the stops 7 are permanently secured to the housing with the screws 5 as Applicants understand the teaching.

Again, Applicants have amended the independent claim 1 to recite that the support frame comprise a tubular element and the at least one add-on element comprise a tube retaining section, the tubular element being secured between the housing and the tube retaining section of the at least one add-on element. The claim also requires that when the swaying element is in the first mounting position, it is outside the pivoting range, but is driven into the pivoting range and after such driving the at least one stop may be mounted on the housing to delimit movement of the swaying element from within the pivoting range to outside the pivoting range. There is no teaching in either of the Ostrowski references which suggests the limitation of the swaying element being outside the pivoting range, and then being moved within the pivoting range, and then at least one stop being mounted to prevent movement of the swaying arm outside of the pivoting range.

As mentioned previously, there is no teaching of one stop being detachable and a second stop being non-detachable. There is simply no teaching in Ostrowski '988 which suggests that the swaying arm begins in a mounting position which is outside the pivoting range and then the element 9 mounted to the housing after the arm is moved into the pivoting zone. Indeed, it would appear that the arms 6 of the housing would clearly prohibit this teaching because it would be difficult if not impossible to mount the screws 5 if the arm were outside the pivoting range. Note that the two stops 7 are integral with the plate or element 9 which, as understood, is mounted to the housing 2. Applicants can find no teaching in the reference which suggests that the swaying arm 4 be pivoted from the out-of-pivoting range position to within the pivoting range.

As to dependent claim 4, note that Applicants have recited that the wiper drive comprises the support frame and the at least one add-on element is suitable for exerting a retaining function for a connection between the housing and the support frame. In this

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regard, note that add-on element performs a dual function of providing in at least one stop and securing the support frame to the housing. Clearly, the Ostrowski references cannot and do not teach of such limitation.

Claims 2, 4, 10, and 11 are dependent claims and contain limitations in addition to the limitations of claim 1 and for the reasons stated earlier are also not anticipated by the Ostrowski references. Again, Applicants respectfully submit that to have a proper anticipation, the reference must teach of each and every element of Applicants' claims as now presented. These dependent claims, when viewed in combination with the limitations of the independent claim 1 from which they depend, cannot be anticipated by the Ostrowski references. Accordingly, they should also be allowed.

In page 5 of the Office Action, the Examiner stated that he presumed that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicants are employees of the assignee and confirm that the inventions contained herein were made as a result of their employment.

On page 5 of the Office Action, the Examiner rejected claim 16 under 35 U.S.C. 103(a) as being unpatentable over Ostrowski (German Patent 10011842). Claim 16 is a dependent claim that depends directly from independent claim 1 and contains limitations in addition to the limitations of claim 1. Applicants have amended Claim 16 to recite that the tube retaining section comprises an arcuate portion for engaging the tubular element and believes the claim is allowable over the cited reference. For the reasons stated earlier herein relative to the rejection of claim 1 and also for the following reasons and in view of claim 16 as now presented, Applicants believe that these claims claim 16 is not unpatentable over Ostrowski '842.

For all the foregoing reasons and in view of the claim 16 as now presented, Applicants respectfully submit that claim 16 is not unpatentable over Ostrowski '842.

On page 6 of the Office Action, the Examiner rejected claims 7 and 16 under 35

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U.S.C. 103(a) as being unpatentable over Ostrowski '988. In view of the claims as now presented, for the reasons discussed below and also for the reasons stated earlier herein relative to the prior rejections based on the Ostrowski references, Applicants respectfully traverse the rejection and believes that these claims are not obvious in view of the cited references.

First, Applicants can find no teaching or suggestion in the references which suggests that they be combined as the Examiner is proposing. Moreover, even as combined, the references still fail to teach of the combination of elements of the dependent claims when viewed in combination with the independent claim 1 from which they depend either directly or indirectly. For example, claim 7 requires that the add-on element is a part made of sheet metal and that the at least one stop is integral with the sheet metal. Even if one were to consider the element 8 or 9 of Ostrowski '988 to be made of sheet metal, the reference would still fail to teach of the other elements of Applicants' claim 1 for the reasons stated earlier herein relative to the rejection of claim 1 based on this reference. Accordingly, even the modification of Ostrowski '988 as proposed by the Examiner, fails to teach of Applicants' independent claim 1 and therefore cannot teach of the dependent claim 7 and dependent claim 2 from which claim 7 depends.

For all the foregoing reasons and in view of the claims as now presented, Applicants believe that claim 7 is not obvious over the cited reference and should be allowed. Claim 16 depends directly from independent claim 1 and contains limitations in addition to the limitations of claim 1. Applicants have amended Claim 16 to recite that the tube retaining section comprises an arcuate portion for engaging the tubular element. Accordingly, in view of claim 16 as now amended and for the reasons stated earlier, Applicants believe claim 16 is allowable over the cited reference.

On pages 5-7, Claim 17 was rejected under 35 U.S.C. 103(a) as being unpatentable over Ostrowski '842 and Ostrowski '988 in view of Armbruster et al

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(German Patent 2636419). For the reasons stated earlier herein relative to the Ostrowski '842 and Ostrowski '988 rejections, in view of the claim 1 as now presented and also for the following reasons, Applicants believe that the claim 17 is not unpatentable over the cited combination.

Again, Applicants can find no teaching which suggests that any part of the Ostrowski '842 or and Ostrowski '988 be modified with the Armbruster et al. welding 19. Applicants note that the swaying element, as understood, in Ostrowski appears to be releasably fixed to the output shaft and not welded. There would simply be no motivation to provide the additional step of providing a weld of the swaying element to the output shaft, which would increase the assembly time and perhaps the overall expense of the wiper systems of Ostrowski. Applicants believe that it is not obvious to use the teachings of Armbruster et al. to significantly change the operation and assembly of the Ostrowski devices for the reasons mentioned.

The cited combination further fails to teach of the support frame comprising a tubular element and the at least one add-on element comprising a tube retaining section, the tubular element being secured between the housing and the tube retaining section of the at least one add-on element. Accordingly, Applicants believe that claim 17 is not unpatentable over the cited combination.

On page 8 of the Office Action, the Examiner requested clarification as which particular claims were not incorporated into the preliminary amendment. Applicants have re-reviewed the published application and notes that the amendments to the claims were, in fact, entered. Applicants apologize for any confusion that Applicants' prior request may have caused.

For all the foregoing reasons and in view of the claims as now presented, Applicants believe that these claims are neither anticipated by nor obvious in view of the cited references and should be allowed.

Applicants are filing concurrently herewith a one month extension of time.

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The Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. 1.16 and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-1287. Applicants hereby provide a general request for any extension of time which may be required at any time during the prosecution of the application. The Commissioner is also authorized to charge any fees which have not been previously paid for by check and which are required during the prosecution of this application to Deposit Account No. 50-1287.

Applicants invite the Examiner to contact the undersigned via telephone with any questions or comments regarding this case.

APPLICANTS RESPECTFULLY REQUEST AN INTERVIEW WITH THE EXAMINER IF THIS AMENDMENT DOES NOT PLACE THIS CASE IN CONDITION FOR ALLOWANCE.

Favorable action on the merits of the application is respectfully requested.

Respectfully submitted,
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